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ABSTRACT

There is a great deal of disagreement about what it means to have a comprehensive policy dealing with alcohol and other drugs. This publication is designed to address the very basic issues of policy development, to offer broad guidelines in policy development, to provide resources in this area, and to encourage the development of comprehensive policies that feature strong educational components. Chapters include the following: (1) Introduction; (2) The Policy Development Committee; (3) Elements of Risk Management; (4) Key Policy Elements; (5) Presentation of the Policy; (6) Education; (7) Summary of Action Steps; (8) References and Footnotes; and (9) Additional Information Resources. The important aspects of policy stressed are: (1) having support from the highest level of the institution; (2) involving everyone on campus; (3) designing a policy to meet specific institutional requirements and applicable laws (risk management); and (4) continuing education on the impacts of alcohol use. The lack of agreement in what constitutes abusive consumption, what an alcohol-related problem is, or even what "moderation" or "responsible use" really means makes the creation of policy necessary and difficult. (KM)

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ED 373 285

RESOURCE FILE

Alcohol and Other Drugs: Policy Development for Trustees of New Jersey Colleges and Universities

Prepared By
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This document now replaces the title:
Alcohol and Other Drugs: Policy Issues for Higher Education
By Michael Shaver

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Preface

The past decade has seen remarkable growth in alcohol and other drug education programs on college and university campuses in this country, and as we enter the 1990's it appears that this growth will continue, spurred by, among other things, the renewed "war" on drugs, increased public interest in alcohol-related incidents at institutions of higher education, and the continuing flow of civil lawsuits into the nation's courts. Also, institutions now face demands from the U.S. Department of Education for further activity and reporting in the areas of policy and education in order to maintain their federal funding. Because of these issues, the development of alcohol and other drug policies for institutions is as timely a topic now as it was ten years ago when the landmark decision in Bradshaw vs. Rawlings recognized that colleges lack the authority to control students' private behavior and recognized that college was an opportune time for students to assume and exercise responsibility for their own conduct.

There is a great deal of disagreement about what it means to have a comprehensive policy dealing with alcohol and other drugs. Some institutions have decided that becoming a "dry" campus eliminates the need for a policy, others believe that their institutional liability is lessened by having no stated policy, and still others have very comprehensive policies. In any of these situations, there is no guarantee that an institution will never face a lawsuit for an injury related to the use of alcohol and other drugs.

This publication is designed to address the very basic issues of policy development, to offer broad guidelines in policy development, to provide resources in this area, and to encourage the development of comprehensive policies that feature strong educational components. A review of this document will give trustees an understanding of the implications for risk management and provide a basis for discussion of the trustees' role in the policy development process.

Institutions cannot ignore the risks that alcohol and other drugs create on their campuses, and the best strategy for dealing with these issues is for institutions to do what they do best–education. Although trustees are the focus of this publication, the Clearinghouse is providing similar publications to presidents, substance abuse coordinators, and faculty and staff who are working with alcohol and other drug policies.

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CONTENTS

Introduction 4

The Policy Development Committee 6

Elements of Risk Management 7

Key Policy Elements 10

Presentation of the Policy 14

Education 17

Summary of Action Steps 19

References and Footnotes 20

Additional Information Resources 22

Addendum:

Public Law 101-226, The Drug-Free Schools and Communities Act Amendments of 1989, Section 22: *Drug Free Schools and Campuses* 26

About the New Jersey Alcohol/Drug Resource Center and Clearinghouse

The mission of the New Jersey Alcohol/Drug Resource Center and Clearinghouse is to collect, develop, and disseminate information and materials reflecting a wide range of issues and approaches to alcohol/drug use and problems in order to meet the needs of and provide services to the citizens of the State of New Jersey. The goals of the Clearinghouse are to:

- Provide education and training programs for specific populations;
- Offer alcohol/drug consultation services and program information;
- Develop core collections of alcohol/drug prevention, education, and treatment materials; and
- Disseminate information on alcohol/drug prevention, education, and treatment.

The Clearinghouse has as its primary constituencies:

- Department of Community Affairs
- Department of Corrections
- Department of Education
- Department of Health
- Department of Higher Education
- Department of Human Services
- Governor's Council on Alcoholism and Drug Abuse
- Office of the Attorney General — Department of Law and Public Safety.

The Clearinghouse uses the following techniques and strategies to achieve its mission and goals :

- Training programs
- Technical assistance
- Circulation of library materials including videotapes and curriculum guides
- Development and dissemination of fact sheets, resource guides, bibliographies, and program brochures
- Newsletters.

Information on the services available from the Clearinghouse may be obtained by calling Education/Training Services at (908) 981-0964 and/or Information Services (908) 932-5528.

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Introduction

Few issues in recent times have sparked more controversy or affected more areas of campus life than the consumption of alcoholic beverages by students. Concerns range from accidents and injuries to academic failure and liability lawsuits. At the base of this controversy lies the institutional policy — the instrument through which the institution makes public its philosophical and legal positions on the many issues with which it is concerned. In regard to the questions of alcoholic beverage consumption, policy makers have become aware of the need to address the delicate balance that exists between the law, the institutional mission, and the personal freedom of students who, at the age of eighteen, are recognized as adults for many purposes. While the concept of "In Loco Parentis," i.e., acting "in the place of parents" from Bradshaw v. Rawlings (1979),[1] was struck down by the courts several years ago, there remain many legal questions regarding the relationship of the institution to its students. There also remains a public expectation that institutions exercise a degree of control over students which is not always realistic or reasonable. Another issue that must now be considered is the recent amendment to the Drug Free Schools Act through which the U.S. Department of Education mandates a variety of education and policy changes for institutions of higher education receiving any form of federal funding. (See addendum: Public Law 101 - 226). Given all of these conditions, the development of an institutional policy on the use of alcohol and other drugs has become a complex task which needs to involve or at least concern nearly everyone on a college campus.

A recent Carnegie Foundation report, *Campus Life*, reports that two-thirds of today's (college and university) presidents called alcohol abuse a problem on their campuses. "Substance abuse, primarily alcohol" was mentioned most frequently when presidents were asked, "What three campus-life issues have given you the greatest concern?" [2]Further, in a recent Carnegie Foundation survey of faculty, 33 percent of those responding said that alcohol abuse by students had increased. What is offered here is a summary of considerations for use in the development of a campus alcohol/drug policy. Institutions should be aware that there is no one single set of standards which is appropriate; individual institutional histories, state laws, local statutes, and evolving case law all need to be taken into account when examining the institution's approach to risk management (Anderson et al., 1986, p. 2). Often the focus of the task seems to be the "bottom line," but there are many humane issues involved as well. While an institution may not wish to be the target of an injured student's multi-million dollar lawsuit, the preference of most trustees and administrators would be that the student not be injured in the first place, and by succeeding in one task we may help accomplish the other.

The policy development process must include reviews of historical information as well as consideration of the current state of affairs on campus. It also becomes an

exercise in "What if?," in which trustees must look for problems far into the future. One of the most serious impediments to face in beginning this task is the lack of consensus in attitudes toward drinking. It is this very lack of agreement in what constitutes abusive consumption, what an alcohol-related problem is, or even what "moderation" or "responsible use" really means that makes the creation of policy necessary and difficult. The policy becomes a form of administrative consensus to guide the conduct of students, and the faculty and staff who work with them. It is developed out of many complex areas such as social convention, law, public opinion, and the concern for the quality of education and life at the institution. It is difficult to choose which area should take priority in the decision-making process. Our increasingly litigious society often forces us to make policy decisions that are biased toward concern for our institution's liability. Civil law, however, offers at best only guidelines and not guarantees.

The social atmosphere in this country has become increasingly conservative in regard to personal choice and freedoms since the legal age to purchase alcoholic beverages was lowered to eighteen by many states during the Vietnam era. In the recent government pressure to create a uniform legal age of twenty-one, many questionable assumptions were made regarding the likelihood of compliance by people of college age. Also implicit in this change were assumptions about the maturity and sense of responsibility of a person aged 21 as opposed to one aged 18. Whether or not a person chooses to attend college, this point in most peoples' lives is one of great change and learning through experimentation where many limits are challenged and rules tested. At its best, an institution can make the most of this desire to grow and learn. But those who work with college students are aware that one must take the "good" with the "bad," the "problems" with the "promise." No one can realistically assume that students will end or even moderate their behavior in regard to drinking alcoholic beverages regardless of the policy we decide upon, yet each institution must make these decisions. Even when an institution has no written policy, whatever action taken in response to an incident involving alcohol and drugs is then assumed by the courts to be the institution's policy. The absence of a policy merely relegates to the courts the decision of what action to take in a situation regarding drinking. [3]

In addition to a policy that provides a safe environment, most institutions also want a policy that is educationally and developmentally sound. Although there can be no "perfect" policy, the goals expressed here are by no means impossible to achieve. Through careful examination of current policies and situations, involvement to the greatest possible extent of those affected by the policy, and finally through ongoing education, a workable and comprehensive policy can be developed.

The Policy Development Committee

An important initial step is to have a committee charged by the top administration to ensure that the policy development activity will be most effective. There must be complete endorsement from the highest office in the institution. Everyone involved in the policy development process should be made aware of the administrative support and the importance of the work ahead. Too often individuals working with issues of alcohol/drug use, misuse and abuse feel that while they are involved in a very important and difficult task, they are isolated from the rest of the campus in this effort. Institutional leaders should make every effort to avoid this perception from the outset.

The composition of the alcohol policy development committee is vital to successful policy development. Since the policy will impact on the entire institution, representation should reflect the broad scope of the policy and include committee members from as many areas as possible. Obviously, the representation of offices such as substance abuse prevention, student affairs, student development, residence life, student health services, and legal affairs is necessary to the process. Many times, however, there are other offices (e.g., law enforcement, activities, athletics, and the local community) who can make equally important contributions to the process but whose need for inclusion is not so obvious. While the size of the committee must be manageable, a subcommittee structure might be considered to include these representatives.

Faculty Involvement

The value of faculty members' expertise and knowledge in their fields goes without saying, but they also have unique opportunities to observe and interact with students. Their input can be extremely valuable for this reason and representation from faculty should always be included. The considerable influence faculty may have over student behavior can also serve to lend very significant weight to the policy.

Student Involvement

Student involvement is perhaps the most vital concern in the policy development process, since it is the students who will be most directly affected by the change (and because they are the primary reason the institution exists). There are many reasons to include student representation, not the least of which is to have their input regarding likely responses to the policy. The support of the policy is another very good reason to include students. Once students become more aware of the seriousness of the problems being considered and the difficulty of the choices being made, they are likely to make other students aware and supportive. Student representation would include but not necessarily be limited to: student government, residence hall government, greek letter organizations, licensed student organizations, and student body representation.

Once the committee is selected, it is important to maintain the integrity of the working group by giving equal "weight" to each representative. Doing otherwise could undermine the transition to a new policy environment. The committee must also agree on the items to be considered, the individual and/or group they wish to have address them, and the information necessary to fulfill the tasks.

Elements of Risk Management

Risk management is a term used frequently in the area of policy development, and it is helpful to have an understanding of the basic elements of the risk management process. Developing a campus policy on alcohol/drug use involves many individuals who may be unfamiliar with the process, and so may never have had any exposure to the notion of risk management. Of vital importance in the process of examining the question of risk is ongoing communication and involvement with legal counsel. Often the presence of risk may be decided based on related liability cases and new laws, and this is not an area in which it is advisable to make interpretations without legal advice. Risk management is a specialty within general management, and as such involves the coordination of the activities of a number of areas or individuals to accomplish a single goal.

In *The Risk Management Process*, Dr. George Head defines risk management as, "the process of planning, organizing, directing and controlling the resources and activities of an organization in order to minimize the adverse effects of accidental losses on that organization at the least possible cost" (1978, p. 8). This, with some modification, is a significant part of the process in which those developing policy will be involved. Obviously, this cannot be the function of a single office or individual. Further, it is an analytical process which must proceed in careful stages. In the case of policy development, the first stage would involve a careful analysis of the current policy, or, lacking a policy, the current situation on campus. The review should be concerned with finding situations that have proved to present a danger or that appear to present a danger (part of the "what if" activity). If a danger seems to actually exist or seems likely to occur, then a decision must be made to either eliminate the situation, or to alter it so that the danger is reduced through the selection of alternatives. Once an alternative is chosen, then the task becomes deciding how to implement the chosen alternative. Finally, the situation should be monitored on a regular basis to see if the desired effect is in fact taking place. Monitoring should always be accomplished with an eye toward repeating the process if the desired effects are not occurring. This monitoring can also assist with institutional compliance to the Federal drug free schools and communities amendments requiring annual review and reporting of alcohol and other drug education and prevention activities.

An additional benefit to developing your institutional policy on alcohol/drug use in terms of risk management is that the process can be as much a risk management tool as the policy itself. Involving people helps them become aware of the severity of alcohol/drug problems and the need to deal with their issues. Once aware, they may return to their own jobs and departments and begin to make the connections within their own work. This can be very helpful in eliminating the very persistent notion that once someone is identified as "the alcohol and drug program" on campus that everyone else can stop thinking about it.

The very basic questions to be asked about each event or condition are:

- What could go wrong (or, What has gone wrong before)?
- What might happen if it did go wrong (or, What happened when it went wrong before)?
- What can we do to prevent it from going wrong (or, What have we done that has worked before)?

One of the critical elements in any tort liability case is the issue of "foreseeability." The question to be considered is whether the apparently responsible party "knew or should have known" that a danger of injury or harm was present, and whether or not the institution acted "reasonably and prudently" in giving adequate warning, supervision or education that might have prevented the injury. In the case of alcoholic beverage consumption the courts have consistently found that intoxication is a reasonably foreseeable result of excessive drinking. The duty to warn or supervise is often examined in light of the apparent relationship of the student and the institution. While the courts have for many years held that institutions do not necessarily have an "In Loco Parentis" relationship with students, there is still often the question of what specific relationships do exist. Each institution must decide and clearly express what relationship it will have with its students, and in so doing it should include what it will or will not take responsibility to do. This, in part, will help answer the important question of "duty to care".[4] Each department should examine the functions and activities that involve students to decide what the relationship appears to be within their particular area. In some situations the relationship is clear, such as an instructor teaching a sports course and providing instruction, supervision, safe equipment and direction in how to use it. Sometimes, as in the case of policy development, it is not so clear. In each case the institution must decide whether or not it wishes to maintain the relationship.

Situations where the relationship is undefined or unclear often occur where the use of alcoholic beverages are concerned, such as what measures the institution will take to make sure that dangerous practices in regard to excessive consumption at social

events does not take place, and what steps it will take if this practice is discovered. It is not necessary that the institution take all the responsibility for preventing these activities, but a policy needs to address how far it will go in educating and supervising those responsible for the events, and what disciplinary action it will take for policy violations. Useful tools for examining "trouble spots" may be historical, such as law enforcement records, disciplinary reports and health center information. A large percentage of campus violence, vandalism and subsequent damage has been shown to be alcohol-related, as have a large percentage of injuries treated at student health centers. Cases in which students are experiencing academic problems, and cases where a student leaves the institution because of academic problems also show a high correlation with excessive alcohol use. Sharing of research and experience among institutions is, of course, also very helpful to the process.

Involvement of student groups and organizations in the process of policy review and assessment can provide a multitude of benefits. For example, you may ask that all presidents of student organizations could be asked to work with the administration to conduct a risk management assessment of their activities where alcoholic beverages are made available. This provides the opportunity for interactive education in looking at the very real possibility of organizational liability. Many times officers of these organizations have no real awareness of their possible liability if accidents or injuries occur at their events, or they may have some awareness, but only in an abstract sense.

Looking at some very real situations can help the student representatives begin to make changes to reduce some of the risks inherent in their activities. For instance, the substance abuse program can help them understand that, if they serve alcoholic beverages at an event knowing that the students will be driving, the organization, its officers, its members, and even the institution itself may well be held responsible for any accident or subsequent injuries. Examining the possible risks could also lead to greater support and cooperation with any policy changes the institution might eventually make. Risks, of course, go beyond the presence of alcoholic beverages, but their presence will almost always increase the risk of liability. Some questions in particular that should be addressed with student groups and organizations include, but are certainly not limited to, the following:

- Is the issue of host responsibility clearly understood by the officers and advisors of the organization?

- Do the events themselves encourage excessive drinking (calling an event a "Beer Bash" gives it an obvious connotation), and is drinking the focus of the event?

- Are areas where alcoholic beverages are being served controlled as to checking identification, limiting service, or refusing service to individuals if they are obviously intoxicated?

- Are food and non-alcoholic beverages readily available in adequate amounts?
- Has any planning been included for sleeping space or rides home for those who may drink too much?
- Are the individuals "in charge" present, sober, and in control of the event?

In helping students identify and either reduce or eliminate risk, the institution accomplishes risk management for itself, since many times student-sponsored events are also the largest risk areas for the institution. While raising the issue of liability is an excellent way to get the attention of student leaders, the goal is to eliminate situations in which students may be seriously injured or worse.

Key Policy Elements

1. A Statement of Purpose

This should deal with the development and support of the policy, including: statements which detail the institution's assumptions about the consumption of alcoholic beverages; the relationship the institution has with its students (e.g., that the institution does not act "In Loco Parentis", that it regards students as adults for most purposes, does not intend that the policy or the institution shield students from assuming legal or social responsibility for the decisions that they make); and a statement that the policy will apply campus-wide. Reviewing the institution's mission statement can be helpful in the development of this statement.

2. A "Review in Summary" of Existing Pertinent State Laws

This should at minimum include:

- The general laws regarding age of purchase, possession, consumption, and their respective penalties.
- Laws regarding the sale of alcoholic beverages by licensed establishments, including "dram shop" laws if they exist in the state.[5]
- Laws regarding driving and issues such as DUI/DWI, open container laws, and their respective penalties.

- Other pertinent legal issues, such as "social host" liability or laws that deal specifically with minors.[6]

- Locations where alcoholic beverages may be sold as opposed to only possessed or consumed.

This review should be followed by a statement noting the institution's intent to comply with these laws, and expectations that students will also comply.

3. Specific Institutional Requirements

In this area much of the content will depend on the unique characteristics of the university or college, such as whether there are residence facilities, or if alcoholic beverages are permitted on campus at all. Suggested content includes the following:

- Locations where alcoholic beverages may be possessed and consumed by persons of legal age. This should be very specific, and should include all areas in which this activity will be permitted (i.e., private rooms, suites, lounges, common areas, student centers, etc.). Areas utilized for functions that may be sponsored by staff or faculty should also be included, as should areas that may be used contingent upon the granting of an exception.

- Locations where alcoholic beverages may not possessed or consumed. Again, if an area cited is subject to possible exceptions, this should be stated.

4. Threshold Conditions

Non-alcoholic beverages in appropriate amounts should be a requirement at every event where alcoholic beverages are available. They should be featured as prominently as alcoholic beverages and served at the same location. Substantial food items should be required when any alcoholic beverages are served. It is recommended that the policy specify that a portion of the budget be for food and non-alcoholic beverages when alcoholic beverages are served.

5. Guidelines for Advertisement or Promotion of an Event Where Alcoholic Beverages are Available

The advertisement or promotion of an event where alcoholic beverages are available should specifically prohibit any form of drinking contest or the use of alcoholic beverages as a reward for competition. Institutions may wish to examine their relationship with manufacturers, distributors and sellers of alcoholic beverages

and decide whether or not to allow direct sponsorship of events on campus. Too often the event itself becomes secondary to the promotion of the product, with the sponsor's banners, t-shirts, cups and posters overshadowing the activities.

6. Guidelines for Public and Private Events Where Alcoholic Beverages Will Be Available

The institution should be aware of any such event taking place on its premises, and these events should be registered with the appropriate institutional office (Note: In the case of an area of the institution where licensed service is ongoing, such as a campus pub, blanket approval may be noted by the institution). Registration should include at minimum the following items:

- Date, place and time the event will occur.
- Specific sponsor of the event.
- Names of at least two officers or members of the organization who accept responsibility for the proper conduct of the event.
- Number of individuals expected to attend.
- Description of the food and beverages to be served.
- Description of the control and security measures being taken for the event (e.g., who will be checking ID's and maintaining order).
- Specific beginning and ending times for the event. It is highly advisable that the service of alcoholic beverages be discontinued prior to the end of the event. The time recommended is one hour, and the institution should seriously consider making this a requirement.
- If applicable, a description of how clean-up will take place after the event.

Other issues to be considered by an office approving or disapproving such a registration may include whether or not those attending an event may bring one or more than one guest, how guests will be identified, and the notion that students will be held responsible for their own behavior as well as being responsible for the behavior of their guests.

A final issue regarding registration and approval or disapproval is that of whether or not the institution wishes to require registration of off-campus events. This can be a very precarious matter of control vs. responsibility on the part of the institution, with an off-campus event providing the potential for much responsibility and little control. While the policy should state that the institution strongly recommends that its policy guidelines be followed by students whether the event is on-campus or off -campus, it may not be advisable for the institution to accept the role of either approving or disapproving events that take place off of their campus. Institutions may also wish to consider whether they will allow off-campus events to bear the institutions name, even if a group is licensed by the institution. While a policy of this type can offer no guarantee that the institution will be absolved of any involvement with students who have problems off-campus, this approach, along with a complete policy of education and orientation both to the policy and the appropriate laws, certainly makes clear an institution's awareness of and concern with the possible negative consequences of policy and/or law violations by its students.

7. A Statement Regarding the Use or Non-Use of Alcoholic Beverages by Student Groups During Recruitment Activities.

Many campus organizations view drinking as intrinsic to recruiting, which is of concern since, by their nature, these events are open to the general campus population. "Open" events pose problems of identifying those of legal age, control of areas where alcoholic beverages are being served, and the possibility that non-students may attend posing as students.

8. Sanctions/Penalties for Policy Violations

This is again an area where specific procedure should be based on the institution's unique character and history. It is recommended that in the development of these sanctions and penalties the policy of holding each individual responsible for his or her own behavior be restated. Notice should also be given that students or student groups may face institutional sanctions in addition to legal consequences. It is also highly recommended that sanctions include a component that is educational in nature and deals very specifically with alcohol or other drug-related violations, such as referral to a student assistance or counseling program. To the greatest extent possible, care should be taken to separate the individuals seeking counseling and assistance from those indivduals or groups who are mandated by a disciplinary action to receive these services.

9. Plans for Ongoing Policy Monitoring and Annual Review

The design and implementation of a policy gives no guarantee that it will work as planned in all cases. Students' responses to the policy, changes in law, and the reality

that things may simply not work as well in practice as they do in theory, will all impact on policy. A plan for annual review to determine what changes are necessary should be a part of the poli :y development process. A group selected from the original policy committee should be assigned areas to monitor and provide information for the review process. This not only gives a source for information, but can also help in maintaining data on such alcohol- and other drug-related concerns as disciplinary cases, health center and medical treatment frequency, law enforcement problems, and other information useful to monitoring the policy results and "tracking" the effects of changes in the campus environment.

10. Enforcement of the Policy

Once a policy is established, it may be regarded as a standard of conduct that the institution must satisfy. However comprehensive a policy may be, it may work against an institution in a case where it is not fully enforced and an injury results due to that failure to enforce. Campus law enforcement officers are an important ally in this regard, and need the complete support of the administration to do their job. Their input into the policy development process can also help avoid the creation of rules that are difficult or even impossible to enforce, and they may offer useful alternatives to such rules.

In summary, there are several points to remember in the establishment of policy. The standards must be clear and the institution should take care that they are understood by all those expected to comply with them, and rules imposed by the policy must be realistic and uniformly enforced. While many of the standards dealing with alcohol use and abuse may apply to the use of other drugs, illegal drug use can be an entirely separate set of issues. It is generally not advisable to attempt to cover both of these areas with a single policy. In general, a policy regarding illegal drug use should deal primarily with compliance to the law, and severe sanctions for illegal drug trafficking. However, the institution should offer assistance for problems related to drug abuse.

Presentation of the Policy

From the beginning, it is important to decide how communication will take place during policy development. The students are aware that meetings are occurring about policies which will greatly affect them but they have no forum in which to ask questions or make suggestions during the process. In the interest of building and maintaining support and working toward a smooth transition, keeping the student population informed can be an asset. One method is to provide periodic open-forum meetings on campus to give and receive information on the policy development

process. Depending on the institution's size and population, it may be possible to meet with most of the students in a single place. For others, a series of forums in various areas of the campus may be more workable. A panel of committee members meeting with students should include faculty, staff and student representatives. This provides a cross section with which the forum may identify and later they can offer a variety of interpretations to the input received and help the effectiveness of the committee. Planning should include such meetings in stages as the policy development proceeds, and finally as the policy is completed to present it to the student body. It is very important that these forums never be "Pro Forma" or staged. If students perceive that they are being patronized or manipulated, the forums are likely to be wasted exercises, and may even be counterproductive.

As development proceeds, periodic commentaries or open letters can be useful in keeping the student population informed. Publication of the policy as soon as possible after its completion is, of course, necessary. Other efforts may include straightforward advertising of the policy process, PSA's through campus radio, direct mailings, posters and/or flyers. People tend to support what they help create. Providing the opportunity to be part of the policy-making decision is a sound idea both educationally and legally, since it keeps the most affected population informed as well as giving them a clear investment in the final product. These same strategies can easily be applied in communicating the policy to faculty and staff.

Policy Orientation

One clear educational tie-in with the policy dissemination is to target those individuals who will be registering events on campus where alcoholic beverages will be available. In any case where someone is preparing to take responsibility for such an event, it is a very good idea that they be made fully aware of what they're getting into. This is particularly true with the officers and leaders of student groups and organizations, and their faculty and staff advisors. One method to accomplish this is with a required "Policy Orientation," to be completed by organization officers prior to their being eligible for registering an event where alcoholic beverages are served. Requiring advisors to attend gives the opportunity to expose another "vulnerable" group to the realities of assuming such responsibility and to encourage their participation in careful program planning with the groups they advise.

A possible format for an orientation program includes the following:

I. Orientation to the policy

a. Why a new policy? (Overview of change in laws, current state of problems with alcoholic beverages, policy philosophy, etc.)

b. Review of the new policy and specific changes made.

c. Review of the registration requirements and guidelines.

II. Discussion of Tort Liability

a. Meaning of tort and situations that create liability.

b. Brief presentation of relevant cases.

c. Discussion of negligence, constructive knowledge and group liabil ity.

d. Dram shop laws and social host liability.

III. Party Planning and Event Management

a. Developing "themes" and activities.

b. Foods and beverages.

c. Preventive planning and handling problems.

d. Exercise: Going through the registration process.

A suggestion for the orientation program is having small groups actually plan an event and take it through the entire registration process. This type of activity can provide those individuals who must actually take responsibility for events need some form of interaction with the office approving their requests. They, along with their faculty and/or staff advisors, need in particular to know what the policy and the law requires of them.

Education

The American Council on Education has stated in their recent publication, *Alcohol and Other Substance Abuse: Resources for Institutional Action* (Gulland, 1988, p. 11) that, "Educational and counseling programs addressing the responsible use of alcohol and the hazards of alcohol and drug abuse are vitally important. Such programs... are consistent with the fundamental truth that the college's mission and strength lie in educating students, not in policing their conduct." The report goes on to say that if institutions teach students to assume personal responsibility for their choices and respect the maturity of students by imposing and enforcing reasonable regulations, they will have accomplished a great deal toward meeting a reasonable standard of care. This is the good news in the policy development activity: by doing what they do best, institutions will not only be assisting their students but also helping protect themselves. The policy can become a vehicle to reinforce the notion that alcohol and drug education programs are of importance to the institution, and also may be used to help create new forums and means to accomplish these goals.

Following are several recommendations to address not only the issues of policy with students, but also the larger areas of concern regarding alcohol and other drug use. These are in addition to the education that may be accomplished by involving students in the policy development process. It is important to a comprehensive policy that a campus alcohol/drug education program be developed. Perhaps the best general guidelines for programs of this type have been published by the Network to Promote Drug-Free Colleges and Universities as part of their standards for membership (Burns, 1988, p. 2). The Network recommends that as a matter of policy institutions provide the following:

- A system of accurate, current information exchange on the health risks and symptoms of alcohol/drug use for students, faculty and staff.
- Promotion and support of alcohol-free institutional activities [programming] which includes peer involvement.
- Collaborative relationships between community groups and agencies and the institution for alcohol/drug-related education, treatment and referral.
- Training programs for students, faculty and staff to enable them to detect problems of alcohol abuse and drug use, and to refer persons with those problems to appropriate assistance.
- Information on alcohol and other drugs to students and family members in the orientation programs. The abuse of over-the-counter and

prescription drugs should also be addressed.

- Support and encouragement for faculty in incorporating alcohol/drug education into the curriculum where appropriate.

- A coordinated, campus-wide effort for alcohol/drug education, treatment and referral.

While these are broad guidelines, they are very inclusive in terms of the goals institutions should set for education efforts. The specific methods of accomplishing these goals are part of the development of educational programs that uniquely suit each institution. The tie of educational programs and policy is a very strong one. "While alcohol/drug education has been shown to be effective, students need the opportunity to practice the alcohol-related behaviors discussed in the alcohol education program and be rewarded for such behavior in natural environments before the behaviors are actually learned. If, after exposure to alcohol/drug education, students return to an environment that generally encourages the excessive use of alcohol and tolerance for illicit drug use, the change in attitudes produced by the program may well not be enough to offset the environmental pressures" (Gonzalez, 1980, p. 12).

Summary of Action Steps

I. Substance abuse policy development issues are assigned to the appropriate trustee committee (pg.3).

II. The current policy is reviewed (pg. 3).

III. Risk management activities take place, and information is analyzed (pg.4).

IV. Institutional requirements and sanctions are established with broad participation (pg. 7).

V. Plans for policy enforcement and monitoring are established (pg.10).

VI. The policy is presented to the campus (pg. 11).

VII. Policy orientation is provided to student leaders, faculty, staff, and advisors (pg.12).

VIII. Substance abuse education program is established or reviewed (pg.13).

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Footnotes

1.Bradshaw v. Rawlings is an influential civil decision in which the courts refused to impose unrealistic supervisory duties on colleges. While returning from a sophomore class picnic, the plaintiff, Bradshaw, suffered permanent injuries as a passenger in a car driven by an intoxicated student, Rawlings. The picnic was an annual event that the university staff helped plan, and university funds were spent to buy supplies, including beer, for the event. The event was advertised on campus, and the presence of beer was part of the advertisement. Many members of the sophomore class were not of legal

age to drink alcoholic beverages.

The courts held that the college was obliged neither to control the conduct of the student driver, nor to protect the students traveling to and from the picnic. The court recognized that colleges lack the practical and legal authority necessary to control students' private conduct, and emphasized that the opportunity to assume and exercise responsibilty for their own conduct is an important aspect of college education.

It further stated that the college had no special duty to enforce laws against underage drinking. Overall, the court decision indicated that the college had no "special relationship" that created a duty as a matter of law, and that there was no obligation for the institution to become an insurer of student conduct.

2.The Carnegie Foundation for the Advancement of Teaching and the Amercian Council on Education, National Survey of College and University Presidents, 1989.

3.If, for instance, a student on a campus where no alcoholic beverages are permitted is found in possession of alcohol and is expelled by the institution, the legal system then considers this action to be the institution's policy for such future incidents.

4."Duty to Care" defines a situation in which a particular type of relationship exists (e.g., parent-to-child, guardian-to-child) which creates a legal duty to supervise, warn of danger, oversee, or protect from harm. The relationship of this term to civil liability is that prior to determining whether or not one party is responsible for another's injuries, the court must decide if the relationship was such that it created a duty to supervise, warn of danger, oversee, or protect from harm, and whether or not the injury was caused by a breach of that duty.

5. "Dram Shop Laws" are common-law liability laws for vendors who sell alcohol to minors or intoxicated persons. In states where these exist as statutes, they establish liability and in some cases even set a percentage of liability for vendors who sell to a minor or intoxicated person who later causes injury to themselves or others as a result of the sale. While there is no statute in New Jersey establishing dram shop liability, there are several civil decisions in the state that clearly establish the likelihood of a finding of liability for vendors who sell to minors or intoxicated persons when that sale results in injury. [See **Soronen v. Olde Milford Inn, Inc.**, 216 A.2d 630 (NJ 1966), **Aliulis v. Tunnel Hill Corp.**, 284 A.2d 180 (NJ 1971), and **Buckley v. Estate of Pirolo**, 500 A.2d 703 (NJ 1985)].

6."Social Host Liability" exists in New Jersey. In one situation a host was held liable to a third party for injuries that resulted from serving a minor whom the host knew would be driving later. In another situation the host served a guest of legal age to the point of intoxication, and the guest later injured another person in an automobile accident. The resulting lawsuit included the host in the liability. [See **Linn v. Rand**, 356 A.2d 15 (NJ Super. AD. 1976) and **Kelly v. Gwinnell**, 476 A.2d 1219 (NJ 1984)].

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[Note: Information on all publications listed in this section is available from the Center of Alcohol Studies Library at Rutgers University (908) 932 - 4442]

The Drug-Free Schools and Communities Act Amendments of 1989

(Public Law 101-226) December 12, 1989

Section 22: Drug-Free Schools and Campuses

In General -
(1) Certification of Drug and Alcohol Abuse Prevention Program - Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended to read as follows:

Drug and Alcohol Abuse Prevention

Sec. 1213

(a) Not withstanding any other provision of law, no institution of higher eduation shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary (of Education) that it has adopted and it has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes:

(1) The annual distribution to each student and employee of:

(A) Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of its activities;

(B) A description of the applicable legal sanction under state, local, or federal law for the unlawful possession of or distribution of illicit drugs and alcohol;

(C) A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

(D) A description of any alcohol or drug counseling, treatment, or rehabilitation or re-entry programs that are available to students and employees; and

(E) A clear statement that the institution will impose sanctions on students and employees (consistent with local, state and federal law), and a description of those sanctions, up to and including expulsion (students) or termination of employment (employees) and referral to prosecution, for violations of the standards of conduct required by paragraph (1)(A) ; and

(2) A biennial review by the institution of its programs to:

(A) Determine its effectiveness and implement changes to the program if they are needed; and

(B) Ensure that the sanctions required by paragraph (1) (E) are consistently enforced.

(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a) (1) as well as results of the biennial review required by subsection (a) (2).

(c) (1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for:

(A) The periodic review of a representative sample of the programs required by subsection a; and

(B) A range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions,including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) The sanctions required by (a) (1) (E) may include the completion of an appropriate rehabilitation program.

(d) Upon the determination by the Secretary (of Education) to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal.

(2) Effective Date:

(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on October 1, 1990.

(B) The Secretary of Education may allow any institution of higher education until not later than April 1, 1991, to comply with section 1213 of the Higher Education Act of 1965 as added by paragraph (1), if such institution demonstrates:

(i) that it is in the process of developing and implementing its plan under each section; and

(ii) it has a legitimate need for more time to develop and implement such a plan.

(Note: This is an excerpt from the complete Act. For the complete text of the final rules of this act, see Federal Register Vol. 55 No. 102, Pg. 21679 dated Friday, May 25, 1990.)

The New Jersey Alcohol / Drug Resource Center and Clearinghouse serves institutions of higher education, state agencies , communities and school districts throughout the state of New Jersey by providing technical assistance, training, and resources in alcohol and other drug abuse education and prevention. For more information on the Clearinghouse, call or write to:

Center of Alcohol Studies
Smithers Hall-Busch Campus
Rutgers University
New Brunswick, NJ 08903

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